IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIDNARY ORIGINAL CIVIL JURISIDICTION

CHAMBER SUMMONS NO.958 OF 2005
IN
SUIT NO.2435 OF 1985

Corporation Bank .. Plaintiffs

Vs.

The Officer Liquidator,
High Court, Bombay & Ors.
being Liquidator of
M/s.Greyhound Transways (India) P.Ltd... Defendants

Mr.Subodh Joshi with Mr.Hatim i/b M/s.M.K. & Sabir for the plaintiffs

Mr.B.D'souza for the defendant no.2

Mr.U.S.Patole, Asst. O.L. present

CORAM: S.U. KAMDAR, J.

DATE : 9TH AUGUST, 2005

P.C. :

1. The learned counsel for the plaintiffs states that they are unable to trace out the legal heirs of deceased defendant no.3 and therefore, they are dropping the said defendant no.3.

2. In so far as the present chamber summons is

concerned, the same is taken out for bringing secondary evidence on record. Document which are produced are the xerox copies of the originals. The said xerox copies of the originals are admisisble as secondary evidence u.s.63 sub clause 2 of the Evidence Act. The learned counsel for the plaintiffs has drawn my attention to the explanation furnished in para 5 and 6 of the affidavit in support and contended that the said documents are lost and not traceable and therefore xerox copies must be taken into consideration. The learned counsel for the defendants has opposed the chamber summons and has relied upon the judgment of the Apex court in the case of Dayamathi Bai (Smt.) v/s. K.M.Shaffi, (2004) 7 Supreme Court Cases 107. In view of my earlier judgment in Chamber Summons No.827 of 2005 in Summary Suit No.1116 of 1996 Bank of India vs. G.M.Industries & Ors. decided on 20.7.05, Chamber Summons is required to be granted. Chamber Summons is made absolute subject to proof of contents of the documents by the plaintiffs and if any documents are found tampered with or fradulent then the said objection will be considered at the hearing of the suit whether such document to be taken into account or not. Chamber Summons disposed of accordingly. No order as

to costs.